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January 30, 1995

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BY HAND

William F. Caton
Acting Secretary
Federal Communications Commission
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Washington, D.C. 20554

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JAN 30 1995
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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RE: Written Ex Parte Presentation: ET Docket No. 94-32

Dear Mr. Caton:

Pursuant to Section 1.1206 of the Commission's Rules, we are enclosing for submission in the public record of this proceeding two copies of a letter which we delivered today to David R. Siddall, Legal Advisor to Commissioner Ness. Courtesy copies of the letter were also delivered to the Legal Advisors of the other Commissioners and of the Chairman.

Sincerely,

Stephen R. Bell
Stephen R. Bell

Enclosures

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By Hand

David R. Siddall

Legal Advisor to Commissioner Ness

Federal Communications Commission

1919 M Street, N.W., Room 832

Washington, D.C. 20554

RECEIVED

JAN 30 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

RE: Written Ex Parte Presentation; ET Docket No. 94-32;
Market Uncertainty Engendered by Proposed Reallocation of
2402-2417 MHz

Dear Mr Siddall:

During our meeting on January 26, 1995, you asked if there was any evidence as to how the market for Part 15 equipment has been affected by the suggestion that the Commission might reallocate the 2402-2417 MHz band to licensed uses. The record in this proceeding demonstrates the negative reaction the market has had to the regulatory uncertainty the Commission's proposal has created. In its Comments, IBM notes:

[I]f U.S. firms cannot rely upon a consistent regulatory framework in which to plan their investments in the NII, they will be unable to justify many of [the] risks [of developing it].

Comments of International Business Machines Corporation at 17. Xircom, a producer of local area network adapters for portable computers, echoes this sentiment:

Indeed, even the proposal to allow licensed services in the 2402-17 MHz band is having a chilling effect on the wireless LANs

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industry in the United States. . . . Entrepreneurs, manufacturers, venture capitalists and the public will not invest in developing products and services that use unlicensed frequencies if there is no assurance that the frequencies can be withdrawn so quickly by the FCC [*i.e.*, after their initial 1985 allocation].

Comments of Xircom, Inc. at 2. Cylink, a digital modem manufacturer, graphically describes how the market received the Commission's 2402-2417 MHz proposal:

Cylink itself directly felt the "chilling" effect that even this NPRM has had on the introduction of new products for use in this band. A "signal" has been sent to the public that Part 15 technologies are at risk in this band and other bands. A Cylink Part 15 2400 MHz product introduced the week before the publication of the NPRM was widely anticipated by Cylink's network of over 130 resellers in the United States. . . . Within several days after the release of the NPRM, users questioned the depth of the Commission's commitment [to] Part 15 unlicensed products and services. Purchasing decisions have been "frozen" or abandoned because potential customers believe that the suppliers of Part 15 technologies do not have reliable access to that spectrum.

Comments of Cylink Corporation at 5. The trade press also has picked up on this regulatory uncertainty, informing its readers of the serious problems a reallocation would engender. In a recent article, PC Week ominously wrote:

The Federal Communications Commission could decide . . . to include wireless LAN frequencies among those it plans to auction, a move that could force the eviction of some wireless LAN users from the airwaves.

Pickering, Wendy, "Auction May Disturb Wireless LAN," PC Week, December 12, 1994, at 135. And Network World has written:

[The FCC] wants to auction off spectrum for new services in shared bands used today by devices such as wireless LANs and hand-held computers -- all operating on an unlicensed basis under

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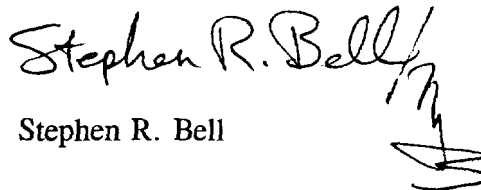
the so-called Part 15 rules. . . . The continued operation of all
this equipment is now in question.

Messmer, Ellen, "No Spectrum is Sacred as FCC Begins Auctions," Network World,
December 5, 1994, at 1.

The market reaction to the Commission's proposal has been swift and harmful to Part 15 equipment manufacturers. Only by excluding licensed services from the 2402-2417 MHz band can the Commission restore regulatory certainty for the products developed in that band. Indeed, given the chill this reallocation proposal and others have created, Norand respectfully submits it would be appropriate for the Commission to indicate in the Order in ET Docket No. 94-32 that the entire 2400-2483 MHz band will remain allocated for Part 15 use.

Pursuant to Section 1.1206 of the Commission's rules, we simultaneously are submitting two copies of this letter to Secretary for inclusion in the public record. We also are providing copies to the other legal assistants with whom we met on this matter.

Sincerely,


Stephen R. Bell

cc: Rudolfo M. Baca
Jill Luckett
Ruth Milkman
Lisa B. Smith
Office of the Secretary (in duplicate)